

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

R.R. STREET & CO. INC. and)	
NATIONAL UNION FIRE INSURANCE)	
COMPANY OF PITTSBURGH, PA,)	
individually and as subrogee of R.R. Street)	Case No. 1:08-cv-01182
& Co. Inc.,)	
)	
)	The Honorable Virginia M. Kendall
Plaintiffs,)	
)	
v.)	
)	
VULCAN MATERIALS COMPANY, n/k/a)	
LEGACY VULCAN CORP.,)	
)	
Defendant.)	

**LEGACY VULCAN CORP.'S MOTION TO DISMISS OR, IN THE
ALTERNATIVE, STAY PLAINTIFFS' MAY 2, 2008 AMENDED COMPLAINT**

On May 2, 2008, Defendant Vulcan Materials Company, n/k/a Legacy Vulcan Corp. (“Vulcan”) filed its Motion to Dismiss or, in the Alternative, Stay the Complaint, accompanying Memorandum in Support, and Appendix of Exhibits (Docket Nos. 15, 17, and 19). Nearly simultaneously, Plaintiffs R.R. Street & Co. Inc. and National Union Fire Insurance Company of Pittsburgh, PA filed an Amended Complaint (Docket No. 18).

Because the grounds for dismissal or stay set forth in Vulcan's original Motion as to Plaintiffs' Original Complaint apply with equal weight to Plaintiffs' Amended Complaint, and to avoid duplicative filings, Vulcan hereby adopts its prior Motion to apply now against Plaintiffs' May 2, 2008 Amended Complaint. Thus, with this clarification, Vulcan moves under Fed. R. Civ. P. 12(b)(1) to dismiss or, in the alternative, stay Plaintiffs' Amended Complaint for

the reasons set forth in Vulcan's May 2, 2008 Motion, Memorandum in Support, and accompanying Exhibits, which pleadings are adopted and incorporated herein.

Dated: May 12, 2008

Respectfully submitted,

/s/Matthew T. Regan, P.C.

Richard C. Godfrey, P.C.

Matthew T. Regan, P.C.

Kirkland & Ellis LLP

200 East Randolph Drive

Chicago, Illinois 60601

Telephone: 312-861-2000

Facsimile: 312-861-2200

*Attorneys for Defendant Vulcan Materials
Company, n/k/a Legacy Vulcan Corp.*

CERTIFICATE OF SERVICE

The undersigned, one of the attorneys for Defendant Vulcan Materials Company, n/k/a Legacy Vulcan Corp., hereby certifies that, on May 12, 2008, he caused a true and correct copy of the foregoing Legacy Vulcan Corp.'s Motion to Dismiss or, in the Alternative, Stay Plaintiffs' May 2, 2008 Amended Complaint to be filed electronically pursuant to the Court's ECF System, which will serve notice upon all counsel of record.

/s/Matthew T. Regan, P.C.